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Our File No.

38110-100

April 6, 2023

**By ECF and E-mail**

The Honorable Lewis A. Kaplan  
United States District Judge  
Southern District of New York  
United States Courthouse  
500 Pearl Street  
New York, NY 10007

**Re: Kleeberg, et al. v. Eber, et al.**  
**Docket No. 16-cv-9517 (LAK)**

Dear Judge Kaplan:

We represent the Eber Defendants in the above-referenced action.

We respectfully submit this letter to request that the Court grant the Eber Defendants the opportunity to review Plaintiffs' proposed judgment and, if warranted, submit a proposed counter-judgment, on or before Monday, April 17, 2023.

While Plaintiffs do not consent to the relief requested on this letter application, Plaintiffs were amenable to another alternative process as evidenced by Plaintiffs' counsel's e-mail communication to Mr. Mohen, dated Monday, April 3, 2023, a copy of which is enclosed. It appears that the Court could not accommodate the parties in accord with Plaintiffs' e-mail communication, and thus we make the instant letter application.

Respectfully submitted,

*s/ Frank T. Santoro*

Frank T. Santoro

Enclosure

cc: All Counsel of Record via ECF (with enclosure)

**From:** [Brian Brook](#)  
**To:** [Andrew Mohan](#); [Judge Kaplan Chambers](#)  
**Cc:** [Mulry, Kevin P.](#); [Santoro, Frank T.](#); [John Herbert](#)  
**Subject:** Kleeberg v. Eber, 16-cv-9517, re: Proposed Judgment  
**Date:** Monday, April 3, 2023 4:40:36 PM

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[Warning: External Email]

Dear Mr. Mohan,

I write jointly with defense counsel regarding Judge Kaplan's order that I provide a proposed judgment by Wednesday, April 5.

First, because there are some clerical complexities that the parties believe they can resolve without court intervention, the parties request that the date for submitting a proposed judgment be extended to Thursday April 13. The additional time will allow us to get the necessary information to fill in some of the blanks regarding the amounts subject to disgorgement based on payments that occurred after discovery closed.

On that same date, April 13, if there is any dispute regarding any portion of the judgment, the parties will submit a joint letter outlining the issue and succinctly presenting each party's argument.

Second, I just wanted to clarify whether it is the Court's intention that I should calculate the daily rate of interest applicable to each category of damages (the categories based on who is paying and to whom it is being paid). It is my understanding that interest amounts are usually calculated by the clerk's office, but then again, rarely are the interest calculations as complex as those here. I have created Excel spreadsheets for calculating interest and shared them with defense counsel, even though there are still some data points to input that have yet to be found in the corporate records.

We thank the Court for its attention to this matter. We can file a copy of this via ECF if that is necessary.

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